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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/204,013 12/01/98 BALDWIN

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023552 QM02/0327
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EXAMINER

PELHAM, I

ART UNIT

PAPER NUMBER

3742

DATE MAILED:

03/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/204,013

Applicant(s)

BALDWIN ET AL.

Examiner

Joseph M Pelham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-26 and 29-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-26 and 29-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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1. The Examiner acknowledges Applicant's submission of the amendment filed under 37 C.F.R. 1.116, on March 1, 2001, and the telephone discussion with Applicants' representative, Mr. Denis R. Daley, on 13 March 2001. Claims 20-26 and 29-35 are now pending.

This action responds to the telephone discussion with Mr. Denis R. Daley, on 13 March 2001, in which Mr. Daley requested clarification of the standing rejections. The Examiner believes that the limitation at issue in the personal interview of 25 January 2001, and in the telephone discussion, that is, supplying AC power to the carrier immediately prior to inserting a pizza, warrants new grounds of rejection.

The finality of the last Office action on the merits, paper #13, is hereby withdrawn. The 116 amendment will be entered and the claims treated hereinbelow on the merits.

2. Claims 20-26 and 29-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5454471 to Norvell in view of U.S. Patent 5750962 to Hyatt and U.S. Patent 5159177 to Kinberger.

Norvell discloses, at Figures 1-5 and column 7, line 21, through column 8, line 7, a method for transporting cooked pizzas substantially as claimed, including an interior sub-chamber for a heat retention member and hook and loop fasteners. Norvell does not disclose a heating coil in thermal contact with the surface of a sealed heat retention member, a thermostat which opens at 95° - 105°C, a dielectric oil heat retention member, a rigid base for the heat retention member, or applying AC power to the heat retention member while it is in the subchamber, prior to inserting a pizza.

Referring to Figures 1-8, and column 3, lines 21-60, Hyatt discloses a heating coil 24, 26 in thermal contact with a sealed heat retention member 18, a thermostat 30, and AC or DC power for the heating coil. It would have been obvious to one of ordinary skill in the art to adapt the coil, thermostat, and power means of Hyatt to the device of Norvell to allow more convenient heating of the enclosure.

Referring to the Figure and column 4, lines 29-45, Kinberger discloses applying AC power to a heat retention member within a pizza carrier, prior to inserting a pizza. It would have been obvious to one of ordinary skill in the art to heat the heat retention member of Norvell in view of Hyatt within a pizza carrier, after the manner of Kinberger, so that the carrier would be immediately ready for use upon heating the heat retention member.

While Hyatt does not explicitly disclose a dielectric oil heat retention member, a rigid base for the heat retention member, or a thermostat which opens at 95° - 105°C, such limitations cannot be regarded to patentably distinguish the claimed invention over the prior art of record, since all are well known in the art or determined by routine engineering considerations. Hyatt discloses food warmers as an intended application of the heating device, and such use would necessitate a rigid form to allow handling of the device, and a thermostat which opens at 95° -

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105°C would be dictated by the conventionally desired temperature of the particular food placed in the warmer.

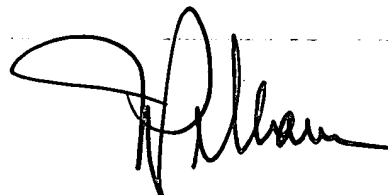
Response to Arguments

3. Applicant's arguments filed March 1, 2001, are moot in view of the new grounds of rejection.

Conclusion

4. Any inquiry concerning this communication should be directed to Joseph Pelham at telephone number (703) 308-1709, or fax (703) 308-7764.

JP
March 26, 2001

A handwritten signature in black ink, appearing to read 'JP Pelham', with a large, stylized initial 'J'.

JOSEPH PELHAM
PRIMARY EXAMINER